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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/625,833

07/23/2003

Jason Alan Shiroff

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EXAMINER

TRUONG, KEVIN THAO

ART UNIT

PAPER NUMBER

3734

MAIL DATE

DELIVERY MODE

06/01/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|---------------------------------------|--|
| Office Action Summary | Application No. 10/625,833 | Applicant(s) SHIROFF ET AL. | |
| | Examiner Kevin T. Truong | Art Unit 3734 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Election to restriction req. 05/08/2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-106 is/are pending in the application.
- 4a) Of the above claim(s) 3,4,7-10,21-23,27,33-62,64-66 and 71-96 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,6,11-20,24-26,28-32,63,67-70 and 97-106 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>03/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of 05/08/2007 in the reply filed on Group I and species of figures 2B-4 is acknowledged.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 2, 5, 6, 11-20, 24-26, 28-32, 63, 67, 70, and 97-106 are rejected under 35 U.S.C. 102(e) as being anticipated by Spitz et al. (U.S. 7,018,391).

As to claims 1, 19, 63, and 97, Spitz et al. discloses substantially as claimed in figures 1-6 and 16-17, a dissection tool (100) a pump; a fluid reservoir adapted to provide a fluid to the pump; an aspiration reservoir adapted to contain aspirant; a tube; and a dissection tool, comprising: a handle having a proximal end and a distal end; an elongated dissecting member having a proximal end and a distal end, the elongated dissecting member extending from the distal end of the handle; and a fluid channel system extending from at least the proximal end of the elongated dissecting member to the distal end of the elongated dissecting member, wherein the tube fluidly connects the dissection tool with the fluid reservoir and the aspiration reservoir.

As to claims 5, 6, 11, and 98-100, wherein the fluid channel system comprises a plurality of channels terminating in a plurality of apertures, wherein each channel terminates in a single opening; wherein the fluid channel system comprises a plurality of channels terminating in a plurality of apertures, wherein at least one of the channels terminates in a second plurality of apertures; wherein the fluid channel system is adapted to transport an irrigation fluid.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 5, 6, 11-20, 24-26, 28-32, 63, 67, 70, and 97-106 are rejected under 35 U.S.C. 102(b) as being anticipated by Spitz (U.S. 6,352,544).

As to claims 1, 19, 63, and 97, Spitz discloses substantially as claimed in figures 1-3 and 6, a dissection tool (100) a pump; a fluid reservoir adapted to provide a fluid to the pump; an aspiration reservoir adapted to contain aspirant; a tube; and a dissection tool, comprising: a handle having a proximal end and a distal end; an elongated dissecting member having a proximal end and a distal end, the elongated dissecting member extending from the distal end of the handle; and a fluid channel system extending from at least the proximal end of the elongated dissecting member to the distal end of the elongated dissecting member, wherein the tube fluidly connects the dissection tool with the fluid reservoir and the aspiration reservoir.

As to claims 5, 6, 11, and 98-100, wherein the fluid channel system comprises a plurality of channels terminating in a plurality of apertures, wherein each channel terminates in a single opening; wherein the fluid channel system comprises a plurality of channels terminating in a plurality of apertures, wherein at least one of the channels

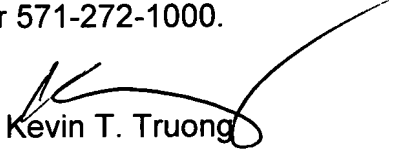
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terminates in a second plurality of apertures; wherein the fluid channel system is adapted to transport an irrigation fluid.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin T. Truong whose telephone number is 571-272-4705. The examiner can normally be reached on Monday-Thursday from 8:00 AM to 6:00 PM..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hayes can be reached on 571-272-4959. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Kevin T. Truong
Primary Examiner
Art Unit 3734

ktt